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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,981	08/16/2004	Ian Craig Barkhouse	00124-01087	4980
,23416	7590	04/21/2006		EXAMINER
CONNOLLY BOVE LODGE & HUTZ, LLP				LIU, JONATHAN
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WILMINGTON, DE 19899				
			ART UNIT	PAPER NUMBER
				3673

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/710,981	BARKHOUSE, IAN CRAIG	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jonathan J. Liu	3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 28 February 2006.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-11 and 15-18 is/are pending in the application.  
 4a) Of the above claim(s) 12-14 is/are withdrawn from consideration.  
 5) Claim(s) 7-11 is/are allowed.  
 6) Claim(s) 1-5 and 15-18 is/are rejected.  
 7) Claim(s) 6 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 16 August 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Liu (US 4,788,727). Liu discloses a border assembly for a mattress or bedding material, said assembly comprising a first side rail (20), a first end rail (comprising 28 and 30) pivotably attached to said first side rail, a second side rail (26) pivotably attached to said first end rail, and a second end rail (comprising 22 and 24) pivotably attached to said second side rail and said first side rail, wherein said side rails and said end rails form a collapsible border assembly.

Regarding claim 16, Liu discloses that the assembly may support any type of mattress (col. 3, lines 32-36).

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3673

2. Claims 2-5, 15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu (US 4,788,727) in view of O'Connell (US 2003/0000021). Liu discloses the invention of claim 1. However, Liu does not disclose wherein said rails are of polyurethane foam. O'Connell discloses said rails are of polyurethane foam (para. 0026). Liu and O'Connell are analogous because they are from the same field of endeavor, i.e. collapsible supports. At the time the invention was made, it would have been obvious to one of ordinary skill in the art to make the rails of Liu of polyurethane foam. The motivation would have been to provide an inexpensive alternative mechanical expedient to the wood rails of Liu. Therefore, it would have been obvious to modify the rails of Liu as specified in claim 2.

With regards to claim 3, the modified invention includes a hinge (62) between said first end rail and said first side rail allowing pivotal movement.

Regarding claim 4, the modified invention includes a hinge (62) between said second side rail and said first end rail allowing pivotal movement.

Regarding claim 5, it is well known in the bedding/support art that hinges may be made of metal, plastic or any other suitable material. It would have been obvious to one of ordinary skill in the art to form the hinges of Liu from plastic.

In regards to claim 15, Liu discloses a mattress kit comprising a mattress core section (see figures 2 and 3; section enclosed by side and end rails); a collapsible border assembly having first and second side rails pivotably attached to first and second end rails, wherein said first and second side and end rails define a center opening to accommodate the mattress core section. Although Liu does show a top sheet

(comprising 40, 42, 44), Liu does not disclose a bottom sheet for attaching to said rails. O'Connell et al. discloses a collapsible border assembly wherein top and bottom sheets are attached to said rails. Liu and O'Connell are analogous because they are from the same field of endeavor, i.e. frames/supports. At the time the invention was made, it would have been obvious to modify the assembly of Liu to include a bottom sheet. The motivation would have been to adhere said rails together. Therefore, it would have been obvious to modify the assembly of Liu as specified in claim 15.

Regarding claim 17, the modified invention includes a mattress (Liu: 14).

3. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Connell (US 2003/0000021) in view of Liu (US 4,788,727). O'Connell inherently discloses the method of claim 18 of making a mattress that incorporates a mattress border assembly, comprising: expanding a collapsible border assembly (60) having first side rails (32) and second side rails (32') attached to first end rails (10) and second end rails (10'), wherein said side rails and end rails define a center opening; inserting a mattress core (50) into said center opening, whereby the collapsible border assembly forms a perimeter frame around said mattress core (see figure 7); attaching a top sheet (70) onto top walls of said side rails and end rails; and attaching a bottom sheet onto bottom walls of said side rails and end rails (72). The preceding steps are all obvious over the invention of O'Connell. However, O'Connell does not disclose the limitation of claim 18 wherein said side rails are pivotably attached to said end rails. Liu discloses a border assembly comprising first (20) and second (26) side rails pivotably attached (62) to first (28 and 30) and second (22 and 24) end rails. O'Connell and Liu are analogous

because they are from the same field of endeavor, i.e. frames/supports. At the time the invention was made, it would have been obvious to one having ordinary skill in the art to modify the rails of O'Connell to be pivotably attached as disclosed by Liu. The motivation would have been to provide for a collapsible and connected border assembly. Therefore, it would have been obvious to modify the rails of O'Connell as specified in claim 18.

The examiner has taken official notice of encasing said mattress core, said collapsible border assembly, and said top and bottom sheets with a fabric or casing, as well known in the bed art and obvious as disclosed by Brooks et al. (US 2004/0172754).

#### ***Allowable Subject Matter***

4. Claims 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. There is no motivation to modify the first side rail and first end rail by cutting a mitered end wall in each of said rails to form a hinge.
5. Claims 7-11 are allowed. The prior art on record does not teach to pivotally attach mitered end walls with square end walls to form the claimed invention of the border assembly.

#### ***Response to Arguments***

Applicant's arguments, see pages 6-9, filed 2/28/2006, with respect to the rejection(s) of claim(s) 1-11 and 15-18 under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further

consideration, a new ground(s) of rejection is made in view of newly found prior art – Liu (US 4,788,727). Liu discloses a collapsible border assembly as claimed by the applicant.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan J. Liu whose telephone number is (571) 272-8227. The examiner can normally be reached on Monday through Friday, 8 am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jonathan J Liu  
Examiner  
Art Unit 3673

Suzanne Barrett  
Primary Examiner  
Art Unit 3676

